

Patent Application
Attorney Docket No.PC9344B

REMARKS

Request For Withdrawal of Premature Final Rejection

Applicants respectfully submit that the finality of the Office Action mailed April 21, 2005 was premature. In response to the previous final Office Action of January 11, 2005, applicants filed a response on March 5, 2005. The response of March 5, 2005 was filed along with a Request for Continued Examination (RCE), a supplemental information disclosure statement (IDS) and an associate power of attorney. In the response of March 5, 2005, applicants amended the claims by canceling rejected claims 73-75, 79-80, 84-89 and 92-108, thereby leaving only the previously allowed claims 1-4, 6-14, 16-30, 33-42, 45-50, 52-55, 57-62, 65-69 and 72.

The Examiner then finally rejected claims 1-4, 6-14, 16-30, 33-42, 45-50, 52, 54-55, 57, 62 and 65 in the Office Action mailed April 21, 2005. In addition, the Examiner objected to claims 7, 10, 13-14, 16-29, 48 and 53 as now being dependent on a rejected base claim. Applicants submit that the present rejection of the instant claims was based upon new grounds of rejection over a reference that had been previously considered and over which the Examiner had previously allowed claims 1-4, 6-14, 16-30, 33-42, 45-50, 52-55, 57-62, 65-69 and 72.

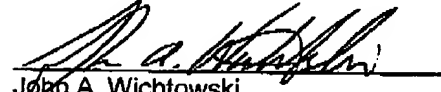
The Examiner stated at page 6 of the final Office Action of April 26, 2005 that "5. Applicant's submission of the requirements for the joint research agreement prior art exclusion under 35 U.S.C. 103(c) on 3-15-2005 prompted the new ground(s) of rejection under 37 CFR 1.109(b) presented in this Office action. Accordingly, THIS ACTION IS MADE FINAL." Applicants are perplexed by this statement since applicants made no statement whatsoever with respect to 35 U.S.C. 103(c) in the response filed on March 5, 2005. In the remarks section of the response filed March 5, 2005 (see page 11) applicants stated merely that previously rejected claims 73-75, 79-80, 84-89 and 92-108 had been canceled and that the rejection of these claims was therefore moot. Applicants respectfully submit that the Examiner raised the new grounds of rejection against claims 1-4, 6-14, 16-30, 33-42, 45-50, 52, 54-55, 57, 62 and 65 over a previously considered reference. Applicants submit that the finality of the rejection mailed April 21, 2005 is therefore premature and should be withdrawn.

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Applicants respectfully request the Examiner to reconsider and withdraw the finality of the rejection mailed on April 21, 2005 in view of the foregoing remarks. An early and favorable response is earnestly solicited.

Respectfully submitted,

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